

## **REMARKS**

### **I. Introduction**

Claims 10-16 are pending in the present application. Claim 10 has been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

### **II. Rejection of Claims 10-12 and 14-16 under 35 U.S.C. § 102(b)**

Claims 10-12 and 14-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,285,187 (“Hirao”). It is respectfully submitted that pending claims 10-12 and 14-16 are not anticipated by Hirao for at least the following reasons.

To anticipate a claim under § 102(b), a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986).

While Applicant disagrees with the rejection, in order to expedite prosecution, claim 10 has been amended to recites that the “at least one signal” is a pressure or temperature signal and that “adjusting a sensitivity” is accomplished by adjusting a threshold. No new matter has been added. As presented, claim 10 is not anticipated by Hirao. First, Hirao does not disclose or suggest using pressure or temperature signals. At most, Hirao describes using acceleration signals. In addition, Hirao does not disclose or suggest adjusting the sensitivity of the detection by adjusting a threshold. Rather, Hirao merely discloses using “a predetermined threshold” for making a comparison.

For at least the foregoing reasons, Hirao fails to anticipate claim 10, as presented. Since claims 11-12 and 14-16 depend from claim 10, they are not anticipated for the same reasons.

### III. Rejection of Claim 13 under 35 U.S.C. § 103(a)

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,285,187 (“Hirao”) in view of U.S. Patent App. Pub. No. 2005/0257981 A1 (“Iyoda”). Applicant respectfully submits that claim 13 is patentable over the combination of Hirao and Iyoda for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claim 13 depends on claim 10. As noted above, nothing in Hirao teaches or suggests using pressure or temperature signals, let alone adjusting the sensitivity of the detection by adjusting a threshold, as recited in parent claim 10. In addition, Iyoda clearly fails to teach or suggest the above-recited claimed features of parent claim 10; instead, Iyoda merely states that it uses lateral acceleration and rotational angular velocity instead of either temperature or pressure. Iyoda also makes no mention of adjusting sensitivity of detection by adjusting a threshold. Accordingly, even if one assumed for the sake of argument that there is some motivation to combine the teachings of Hirao and Iyoda, with which assumption Applicant does not agree, the resulting combination would still fail to teach or suggest all of the claimed features of either claim 10 or its dependent claim 13.

For at least the foregoing reasons, dependent claim 13 is patentable over the combination of Hirao and Iyoda.

**CONCLUSION**

In light of the foregoing, Applicant respectfully submits that all pending claims 10-16 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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